Summary of the report

INTRODUCTION

Since the Committee mentioned in article 17 of the Convention has not yet approved the guidelines for the report, we have decided to begin with an analysis of the social and legal situation in Portugal at the time of ratification of the Convention, going on to deal with subsequent changes, and concluding with a list of the difficulties affecting implementation of the Convention.

I. Situation in Portugal at the time of ratification

The Convention was ratified without reservations.

1.1.
Part I of the Convention. Portuguese law in relation to the general provisions

The provisions which follow are of a general nature; they are in conformity with Portuguese law and affirm that:

- The aim of the Convention is to eliminate discrimination on grounds of sex rather than to protect women;

- The adoption of special interim measures in order to ensure effective equality in practice is not regarded as a discriminatory act;

- Measures must be adopted in order to change attitudes, eliminating prejudices and male and female "role stereotyping".

1.2.
Part II of the Convention. Political rights and the elimination of discrimination in this regard

- The law does not discriminate with respect to the political capacity of women and their opportunities for participation; in our country, however, the participation of women in politics and civic affairs is still very limited.

1.3.

Part III of the Convention. Economic and social rights

1.3.1. EDUCATION

- Portuguese law ensures that women enjoy the same access to education as men.

- In Portugal, efforts have been made to eliminate old stereotypes and prejudices handed down by education.

1.3.2. WORK, employment, conditions of social security and health, and protection for working women during pregnancy:

- The Constitution guarantees the equality of men and women with respect to work;

- Decree-Law No. 392/79 provides for the elimination of all forms of discrimination in connection with access to employment, vocational training, working conditions and pay and promotion in employment;

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Against Women (CEDAW)

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 18 OF THE CONVENTION

Initial reports of States Parties

PORTUGAL

V.84 89454

- The Commission for Equality in Work and Employment (CITE) has been set up;

- Social security rights are the same for men and women;

- Conditions of health at work include protection during maternity (in accordance with article 11, paragraph 2, of the Convention); like the reproductive function of men and women (in conformity with article 11, paragraph 1(f), of the Convention), this is not regarded as a form of discrimination;

- There is no discrimination with regard to work on grounds of marriage or maternity (in accordance with article 11, paragraph 2(a), of the Convention);

- Dismissals on the grounds of pregnancy or recent confinement are prohibited by law (in conformity with article 11, paragraph 2(a), of the Convention);

- A period of maternity leave for confinement, and financial assistance for that purpose, are provided for by law (in conformity with article 11, paragraph 2(b)).

1.3.3. Health

- Access to medical care is without discrimination on grounds of sex;

- However, the medical care available during pregnancy is inadequate.

1.3.4. Other economic and social aspects

- Portuguese law does not discriminate in the cases envisaged in article 13 of the Convention.

1.3.5. Rural women

- Although there is no legal discrimination in this regard, much remains to be done to improve the status of rural women along the lines envisaged by article 14 of the Convention.

1.4

Part IV of the Convention. Civil rights

1.4.1. Civil and procedural law

- Prior to the 1976 Constitution, equality of men and women was guaranteed in civil and procedural law.

1.4.2. Family law

- There has been complete equality between men and women in family law since the entry into force of Decree-Law No. 496/77 of 25 November.

1.4.3. Family planning

- There is no discrimination in access to family planning.

1.4.4. The law stipulates that the minimum age for marriage is 16 years.

2. Developments since ratification of the Convention

2.1. Legislative measures

- Developments in Portuguese law can be regarded as positive in the context of the provisions of the Convention.

2.1.1. With regard to equality between men and women, the provisions of the revised version (in force since 30 September 1982) of the 1976 Constitution are much more clearly aimed at ensuring de facto equality in practice and at eliminating male and female role stereotyping than the earlier version of 1976.

2.1.2. Nationality Law

- Law No. 37/81 gives women rights equal to those of men in respect of nationality (in conformity with article 9 of the Convention).

2.1.3. Advertising Code

- Decree-Law No. 421/80 prohibits any advertising which might lead to discrimination of a sexist nature.

2.1.4. Framework Law for the Protection of the Family

- Decree-Law No. 503/80 affirms the principles of equality between fathers and mothers with regard to parental rights and the organization of working time. So far this Law is merely programmatic in character, since it has yet to be supplemented by regulations.

2.1.5. Allowance for taking care of a sick child

- In accordance with Decree No. 89/81 of 14 July, this allowance may be given either to the father or to the mother.

2.1.6. Supplementary tax

- Decree-Law No. 183 F/80 of 9 July eliminates the severe discrimination which previously applied in this area.

2.1.7. Maternity Law

- This Law has been approved in general terms but has not yet been published. First and foremost it provides for the correct interpretation of what is intended as the protection of motherhood against the problem of discrimination on grounds of sex.

2.2. Additional measures, other than legislation, adopted in order to eliminate discrimination on grounds of sex

- Implementation of institutional arrangements.

2.2.1. The Commission for Equality in Work and Employment (CITE) is authorized to deal with specific cases of persons who may feel themselves to be victims of discrimination in work or employment.

2.2.2. The Parliamentary Commission on the Status of Women has legislative authority.

2.2.3. The Commission on the Status of Women, which functions on an intersectoral basis with competence to deal with all aspects of the status of women, is engaged in activities aimed at eliminating discrimination, including:

- Project for changing attitudes;
- Project for women's vocational training;
- General information for women.

3. Factors and difficulties affecting the degree of fulfilment of the obligations imposed by the Convention

3.1. Difficulties in implementing legislation already promulgated:

- With respect to the Advertising Code;

- With respect to Decree-Law No. 503/80.

3.2. Education

- Difficulties in ensuring de facto equality between boys and girls in education:

  - Traditional options;

  - The labour market.

3.3. Work

- Difficulties in ensuring de facto equality between male and female workers:

  - The impact of the economic crisis on the unemployment of women;

  - Short-term contracts;

  - Lack of child-care facilities.

3.4. Equality with men in political and civic participation:

  - Difficulties in ensuring effective participation;

  - Cultural factors;

  - Double burden.

3.5. Difficulties in changing attitudes:

  - Women's lack of awareness of discrimination;

  - Women's failure to know their rights;

  - Maintenance.

4. CONCLUSION

- The effective elimination of discrimination depends primarily on awareness of the problem and on the adoption of measures at the decision-making level.

INTRODUCTION

Article 18 of the Convention clearly specifies the content of the report which States Parties are to submit to the Secretary-General of the United Nations and which will be considered by the Committee.

The report is to cover the legislative, judicial, administrative or other measures adopted to give effect to the provisions of the Convention, and the progress made in this respect.

Paragraph 2 of this article also states that the reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

The provisions of article 18 clearly indicate that the States Parties should mention in their reports the measures taken after ratification of the Convention, particularly with respect to progress achieved in their countries since that time. However, it also seems to us worthwhile to mention the measures taken in our country before ratification with the aim of eliminating discrimination against women on the same lines as the objectives laid down by the Convention.

It is for the Committee envisaged in article 17 of the Convention to draw up the specific rules which the States Parties are to follow in preparing their reports, in order to enable the Committee to carry out an analysis on the basis of a uniform criterion.

In view of the fact that the Committee has not yet drawn up these rules, which are to be distributed to the States Parties, probably in the form of a sample questionnaire, and the fact that Portugal has to submit its report now, in conformity with article 18, paragraph (a), of the Convention, we have decided to use the following procedure in preparing this report:

1. Analysis of the situation in Portugal at the time of the country's ratification of the Convention, in the light of the provisions of the Convention itself;

2. Changes since ratification;

3. Factors and difficulties standing in the way of better and more effective implementation of the provisions of the Convention.

1. ANALYSIS OF THE SITUATION IN PORTUGAL AT THE TIME OF THE COUNTRY'S RATIFICATION OF THE CONVENTION AND COMMENTS ON ITS SUBSTANCE

The adoption of the Convention on 18 December 1979 at the 107th plenary meeting of the thirty-fourth session of the United Nations General Assembly took on particular importance in the light of the fact that it occurred during the first half of the United Nations Decade for Women, at a time when a strategy for the second half of the Decade was to be adopted.

Portugal was one of the first countries to ratify the Convention, at the Copenhagen Conference in July 1980. The fact that it did so without reservations clearly shows that our legal system was fully in accordance with the principles upheld by the Convention.

The most important part of the Convention is to be found in the 16 articles prohibiting discrimination against women.

1.1. PART I OF THE CONVENTION: PORTUGUESE LAW IN RELATION TO THE GENERAL PROVISIONS

Although the title might suggest that the Convention is intended solely to improve the current status of women, it is clear that some of its provisions are aimed at achieving a de facto balance in the status of the two sexes, that is, the elimination of all discrimination based on sex (article 5, article 10, paragraph (c), and article 11, paragraph 1 (c)).

It is thus not a matter of giving special protection to women as such, but rather of providing them with specific assistance for maternity in the biological sense (see the text of article 4, paragraph 2, together with article 5, paragraph (b)).

Article 1 gives a definition of what is to be regarded as discrimination: the definition is negatively qualified in article 4, which clearly specifies what should not be considered discriminatory.

At the time of ratification, the legal system in Portugal was already in accordance with the general principles of the Convention.

Thus, article 13 of the 1976 Constitution prohibits discrimination on grounds of sex; article 36, paragraph 3, states that spouses have the same rights and duties with respect to civil and political capacity, subsistence and education of children; article 52, paragraph (e), affirms that "the State shall ensure that access to all posts, work or professional levels whatsoever shall not be prohibited or restricted according to sex", while article 53, paragraph (a), mentions that the principle of "equal pay for equal work" must always be upheld.

At the same time, protection of maternity is guaranteed by the 1976 Constitution, which accords it appropriate social importance (in article 68

and article 54, paragraph (c)) in conformity with the principle in article 4, paragraph 2, of the Convention that such protection should not be considered discriminatory.

The same is true of the principle in article 4 of the Convention that the possible adoption by States Parties of temporary measures aimed at accelerating the establishment of de facto equality - and not only in deed - between men and women should not be considered discrimination as defined in the Convention.

In fact, the principle itself is expressed in Decree-Law 392/79 of 20 September, on equality in work and employment, which provides for such possible measures for achieving the objective of the Convention.

The Convention includes, in article 5, a further general principle, the aim of which is to modify the social and cultural patterns and models of conduct of men and women.

In this connection it is also true to say that the provisions of the Portuguese Constitution are aimed at achieving not only legal but also de facto equality.

With that aim in view, article 52, paragraph (c), on access to employment, clearly guarantees equal opportunity while stipulating that such access shall not be blocked or restricted on grounds of sex: this promotes a policy which ensures, in practical terms, the conditions of de facto equality established by the law.

In addition to the congruence of the general principles of the Portuguese Constitution with those of the Convention, the requirement in the Convention that the legislation of States Parties be amended to remove all points of discrepancy with the principles of the Convention is complied with in the case of Portugal by a constitutional imperative.

With the aim of ensuring conformity, almost all discriminatory legislation had already been amended by the time Portugal ratified the Convention.

By that time a number of measures had already been taken with a view to changing traditional customs and practices which were discriminatory, within the definition in articles 2, 5 and 6 of the Convention, on grounds of sex.

Thus, after the promulgation of the 1976 Constitution, and for the first time in the history of Portugal, an entire section devoted solely to the status of women was incorporated in the Government's programme. This envisaged a new and more efficient structure for the Commission on the Status of Women, and with that aim in view the Commission has been made directly responsible to the Prime Minister.

The programme referred to the resolutions of the International Conference for International Women's Year, held in Mexico, mentioning in particular that "the primary concern should be to incorporate the principles laid down in articles 13, 36, 52, paragraph (c), 53, 54, paragraph (e), 67 and 69 of the Constitution into normal legislation and into daily life."

It is becoming evident that such measures will have to be taken over a long period, against a background of continuity, and that they will have a very specific impact on the use of the educational resources mentioned in article 5 of the Convention. Ultimately, it is a matter of achieving a change of attitude on the part of everyone, both men and women, with respect to their idea about the roles of the two sexes in the society we live in: such a programme, which is of a continuing nature, can only yield worthwhile results in the medium term.

1.2. PART II OF THE CONVENTION RELATES TO POLITICAL RIGHTS AND THE ELIMINATION OF DISCRIMINATION IN THAT REGARD

Portuguese law recognizes equal rights for men and women in the areas mentioned in article 7.

With respect to article 8, women have been admitted to diplomatic careers since 1974.

At present, of 322 diplomatic personnel, 30 are women, a proportion of 9 per cent.

Women were given access to the judiciary from 1974 on. At present, 18 women are serving as judges and 101 are already training to become judges.

In the case of Assistant Public Prosecutors and Representatives of the Public Prosecutor's Office, women make up 125 of the total of 450.

With respect to article 9, at the time of ratification of the Convention by Portugal, a Law which discriminated against women was still in force but, as will be mentioned later, this discrimination no longer applies.

1.3. PART III OF THE CONVENTION RELATES TO THE ELIMINATION OF DISCRIMINATION IN ECONOMIC AND SOCIAL RIGHTS

1.3.1. Article 10, on education, provides two types of priorities:

On the one hand, women are to be guaranteed de facto equality with men with respect to access to education (paragraphs (a), (b), (d), (e), (f), (g));

On the other hand, the goal to be attained is to bring about a change in the attitudes of individuals to the roles of men and women in society (paragraph (c)).

From the legal and institutional point of view, there are no obstacles to equal access for boys and girls to the same programmes at all levels of instruction.

Since 1975, when primary and preparatory education became compulsory, programmes involving manual work, which had previously been different for boys and girls, have been shared by the two sexes.

Training colleges for kindergarten teachers have always been open to both sexes, but in practice they are attended only by girls.

The Nautical School was also opened definitively to women in 1976.

Measures proposed by the Commission on the Status of Women continue to be applied in order to combat the stereotyped ideas handed down by education.

The Commission will carry out an entire programme for informing and training primary school teachers and students in primary school teacher training colleges.

The aim is to provide teaching experience in order to give primary school teachers very specific guidelines on the various ways of elimininating stereotyped ideas about women.

An agreement is currently being signed between the Commission on the Status of Women and the Ministry of Education with the aim of implementing this policy at all levels of instruction.

1.3.2. Article 11 concerns work and employment, social security, health, and maternity protection for working women

As stated earlier, the 1976 Constitution had already guaranteed the equality of men and women with respect to work (article 52 (c) and article 53 (a)).

A Decree-Law (No. 392/79 of 20 September) was promulgated in 1979 with the specific aim of providing regulations to implement the constitutional principle of eliminating all discrimination in access to employment, vocational training and working conditions, particularly with respect to pay and promotion. This document also provided for the establishment of a special body, the Commission for Equality in Work and Employment, whose task is to ensure that the relevant provisions and the principle of equality in work and employment are effectively observed in practice.

There is no discrimination in social security between male and female workers.

However, we must draw attention to certain considerations relating to health protection and safety at work, including the safeguarding of the function of reproduction mentioned in article 11, paragraph 1 (f).

There is no discrimination as to health protection between male and female workers.

When maternity health care is regarded as part of the safeguarding of the reproductive function, such care cannot be considered discriminatory. In fact, article 54 (c) of the Constitution provides for special protection at work during pregnancy and after childbirth, i.e. throughout the biological cycle of maternity.

However, Portuguese legislation regarding the safeguarding of the function of reproduction should be improved.

Decree-Law No. 49.408, which deals with individual labour contracts, entitles women during pregnancy and after childbirth to decline work which could involve physical risks, either of toxicity or of mechanical trauma. There is no comparable regulation, however, for the public service.

In addition, Decree-Law No. 392/79 on equality in work and employment states that any work legally certified as involving actual or potential risks to the reproductive function is prohibited, thus providing protection for the reproductive function of men and women on a non-discriminatory basis.

Article 11, paragraph 2, affirms that there shall be no discrimination against women in employment on the grounds of marriage or maternity, and provides for maternity leave and the right to the appropriate benefits.

The 1976 Constitution recognizes maternity as a cardinal social value (article 68) and provides for the right to a period of leave before and after childbirth without loss of pay or privileges (article 68, paragraph 2). These rights are fully upheld by law, as is leave on the grounds of maternity or marriage (Decree-Law No. 392/79 of 20 September, the regulations for individual labour contracts in connection with Decree-Law No. 49.408 and the regulations for the public service).

Decree-Law No. 112/76 of 7 February stipulates maternity leave of 90 days for childbirth together with appropriate benefits (in accordance with article 11, paragraph 2 (b), of the Convention).

Paragraph (c) lays down a programme and is generally in agreement with article 68 of the Constitution, which provides that mothers shall have the right to further their careers and to participate actively in the country's public life.

Exactly the same comments can be made in connection with subparagraph (d) as were made with regard to article 1 (f).

1.3.3. Article 12, on health care, affirms in paragraph 1 the principle of non-discrimination against women in access to medical services, including those related to family planning.

Portuguese law, and our Constitution in particular, guarantees all citizens the right to health, without discrimination of any kind (article 64, paragraph 1). The State is required to uphold this right (article 64, paragraph 3), to see to the distribution of family planning methods and to organize the relevant legal and technical services in order to achieve that aim (article 67 (d)).

Paragraph 2 of this article, which relates to health care and nutritional services during pregnancy and confinement, and in the period immediately following childbirth and during lactation, sets forth an entire programme which, in Portugal, will require further efforts to ensure its implementation.

1.3.4. Article 13 relates to the elimination of discrimination in other fields. Since Decree-Law No. 197/77 of 17 May ended discrimination on grounds of sex in connection with family allowances and other benefits, Portuguese legislation makes no discrimination in that respect.

1.3.5. Article 14, on rural women, is essentially a programme. From a legal point of view, now that uniformity in pensions for rural workers has been achieved (thus eliminating the distinction between "pensions for men and pensions for women"), no discrimination applies in this sector. In practical terms, much undoubtedly remains to be done to improve the status of rural women.

1.4. **PART IV OF THE CONVENTION DEALS WITH CIVIL RIGHTS: ARTICLE 15 IS GENERAL IN NATURE, WHILE ARTICLE 16 DEALS SOLELY WITH FAMILY LAW**

1.4.1. Even before the 1976 Constitution (except as regards family law), equality between men and women in civil law and proceedings was already guaranteed, except in some minor respects.

As far as Portugal is concerned, article 15, paragraph 3, of the Convention, which is aimed at eliminating the possibility of restricting the legal capacity of women, would not be necessary, since no such restricting clause exists in Portuguese law.

1.4.2. Since the Constitution, and particularly after the revision of the Civil Code by Decree-Law No. 496/77 of 25 November, Portuguese legislation conforms to article 16 of the Convention.

Full equality as regards the rights and responsibilities during marriage and at its dissolution, and also in personal and property matters and matters involving the children, is now guaranteed by law (see articles 1601 to 1636, 1671 et seq., 1677 et seq., and 1901 et seq. of the Civil Code).

As stipulated by article 16, paragraph 1 (d), of the Convention, Portuguese law also requires that the interests of the children shall be paramount and that these interests shall be taken into account in all matters where children are concerned (articles 1875-2, 1878-1, and 1905-2 of the Civil Code).

1.4.3. Similarly, as regards family planning and, more specifically, the section on the rights of children, in general, Portuguese legislation is entirely in accord with the provisions of the Convention: the interests and well-being of the children are considered paramount (articles 1931-1, 1935, 1974 and 1990-3 of the Civil Code).

1.4.4. Neither betrothal in marriage nor marriage itself is possible below the age of 16 years, which is the minimum age required and established by law. Under the age of 18, or before attaining the age of majority, the authorization of the legal representative is always required, this being obligatory under articles 1601 (a), 1604 (a), 1631 and 1651 of the Civil Code.

2. CHANGES OCCURRING SINCE RATIFICATION OF THE CONVENTION:

Portugal signed the Convention without reservations in July 1980, and has thus undertaken, on an individual and formal basis, to uphold the status of its female citizens in all respects and without discrimination of any kind.

We should now proceed to analyse the changes in Portuguese law and the measures taken since ratification, as required by article 18 of the Convention.

2.1. DEVELOPMENT OF PORTUGUESE LAW

The development of Portuguese law in relation to the provisions of the Convention can be regarded as highly positive. Progress has been made in constitutional principles; some vestiges of discrimination in legislation have been eliminated; and new laws have been promulgated in order to comply with the obligations imposed by the Convention.

2.1.1. Revision of the Constitution

The 1976 Constitution was revised for the first time by Constitutional Law No. 1/82 of 30 September 1982.

Equality between men and women is thus assured in all areas - family, employment, and participation in civic and political life - and the social function of maternity is also recognized.

The new wording of article 67, which affirms the right of the family to the protection of society and the State, also establishes the right to the creation of every condition to enable members of the family to achieve personal fulfilment: this is clearly aimed at attaining de facto equality and not merely legal equality.

In addition, the new text of article 68 stresses the social function of both maternity and paternity, and guarantees fathers and mothers the protection of society and the State, by providing them with the conditions for effective career development and participation in the country's civic life.

The purpose of this constitutional provision is to achieve "a change of attitudes" on the lines affirmed in article 5 of the Convention, in other words, "to modify the social and cultural patterns of conduct of men and women... which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women".

2.1.2. Nationality Law

At the time when Portugal ratified the Convention, it was article 9 which, from the legal point of view, presented the greatest obstacle to ratification, since the present Nationality Law, which affirms the principle of non-discrimination against women with respect to the acquisition and loss of nationality and the nationality of children, was not yet in force. Under previous legislation women could change nationality automatically as a result of marriage (Law 2098 of 29 July 1959, sections I, IV, V, X, XIII (c)).

At the time, it was felt, however, that, in view of the fact that this Law was unconstitutional and that a new Nationality Law was expected to be promulgated even before the Convention entered into force, the Convention could properly be ratified without reservation.

Law No. 37/81 of 3 October sets forth the conditions for granting nationality, whether original, acquired or relinquished.

This Law represents a new stage in that it effectively brings Portuguese law into harmony with the constitutional principle of equality before the law.

Under this Law women gained the same rights as men in acquiring, changing or retaining their nationality and also with respect to the nationality of the children, in accordance with the obligations undertaken at the time of ratification of the Convention and, specifically, the provisions of article 9.

2.1.3. Advertising Code

Decree-Law No. 421/80 of 30 September prohibits advertising likely to promote sexual discrimination, and thus does not permit any advertisement which might suggest that women were inferior or subordinate to men, or which relegates them to their traditional role of housewife.

The use of pictures of women to promote goods or services of which women are not the sole consumers is also prohibited.

2.1.4. Framework law for the protection of the family

Decree-Law No. 503/80 of 20 October makes both parents (father and mother) responsible for the education of their children and sets forth principles of family policy and compatibility between vocational activity and family responsibilities. One of these principles provides for the introduction of subsidized parental leave, which may be granted either to the father or to the mother, in order to enable them to look after their children; other principles establish the possibility of flexible working hours and half-day work for parents who have to look after their children.

The provisions for implementing this Law have not yet been enacted, so it remains programmatic in character.

2.1.5. Allowance for parents who have to look after a sick child

Decree No. 89/81 of 14 July gives a working father the right, already accorded the mother, to look after a sick child, under certain conditions.

This Decree is valid both for the public sector and for private enterprises.

2.1.6. Supplementary Tax

The effect of Decree-Law 183-F/80 of 9 July, which modified the Supplementary Tax Code, was to eliminate a serious form of discrimination against married women which was a feature of the previous legislation. The married woman, who was regarded as being the husband's responsibility, was virtually disqualified as regards this tax on the family income, even if she herself had a personal income.

The husband was the sole partner to sign the income-declaration, and therefore the only partner to be regarded as a taxpayer. Both partners are now regarded as taxpayers, and each must sign the declaration form, thus eliminating this form of discrimination.

2.1.7. A bill concerning the "protection and defence of maternity" was recently approved in outline. This bill, which has not yet been approved in detail or promulgated, is intended to consolidate in a single document previous legislation currently to be found in a number of different texts.

The bill has the merit of covering the principle of equality perfectly. It protects maternity during the cycle of pregnancy, confinement and lactation by according special treatment to the woman, while ensuring that both parents, father and mother, have absolutely the same rights in the period during which the children are being raised.

2.2. FURTHER MEASURES, OTHER THAN LEGISLATION, AIMED AT ELIMINATING DISCRIMINATION ON GROUNDS OF SEX, IN ACCORDANCE WITH THE PROVISIONS OF THE CONVENTION

There are three institutional structures, already operating at the date of ratification of the Convention, which act as vehicles for implementing the measures which have continued to be taken in Portugal since ratification in order to achieve legal equality between men and women by eliminating de facto discrimination and the traditional stereotyped roles which persist in some sectors of our society.

One of these is the Commission on the Status of Women, which is part of the Office of the President of the Council of Ministers and which was set up by Decree-Law No. 485/77 of 17 November; the second is the Commission on Equality in Work and Employment, established in September 1979 and functioning within the Ministry of Labour; and the third is the Parliamentary Commission on the Status of Women, which was established in January 1980.

These institutional structures have played, and continue to play, an essential role in upholding the principles of the Portuguese Constitution regarding the status of women, and they have naturally also made a very valuable contribution to ensuring that the provisions of the Convention are implemented in Portugal.

2.2.1. The Commission for Equality in Work and Employment

The Commission, established by Decree-Law No. 392/79 of 20 September, consists of three officials of the Ministry of Labour, two representatives of the Commission on the Status of Women, three representatives of the trade unions and three representatives of the employers' associations.

In accordance with article 15, this Commission is authorized to recommend to the Ministry of Labour the adoption of legislative, regulatory and administrative measures aimed at improving implementation of the norms contained in this Decree-Law; to promote studies and research with a view to eliminating discrimination against women in work and employment; to promote and give impetus to all activities aimed at ensuring that women enjoy equality with men in job opportunities and conditions of work and employment; to approve recommendations on equality in work and employment which may be submitted to them; and to publicize cases in which discrimination in this regard against women is substantiated.

In carrying out its functions the Commission will submit its recommendations to the Ministry of Labour, having prepared studies and given its opinion on specific cases, at the request of persons who consider themselves discriminated against in work or employment.

2.2.2. The Parliamentary Commission on the Status of Women

This body has the task of making Members of Parliament aware of the problem of the status of women, and of giving its opinion on new legislation submitted for appraisal to the Assembly of the Republic; particularly in the case of the Convention on the Elimination of All Forms of Discrimination against Women and its prompt ratification, the Commission has made a valuable contribution by stating its views on this document.

2.2.3. The Commission on the Status of Women

This body is part of the Office of the President of the Council of Ministers and is responsible to the Prime Minister or to a member of the Government authorized by the Prime Minister.

One of the departments of the Commission is the Advisory Council, which consists of an interministerial section incorporating representatives of the various government departments and a non-governmental organizations section drawn from organizations representing women, which aims to promote all forms of awareness among Portuguese women and to eliminate the discrimination to which they are subject in order to enable them to become part of the process of transforming Portuguese society in accordance with the principles enshrined in our Constitution.

The Commission operates on an inter-sectoral basis and has legal competence, conferred upon it by Decree-Law No. 485/77 of 17 November, in all questions relating to women; it has promoted, and continues to engage in, activities along the lines established for States Parties by the Convention.

It may be mentioned by way of example that the Commission on the Status of Women is in the process of planning a project for primary school teachers on "changing attitudes" in collaboration with the Ministry of Education. This is fully in harmony with the provisions in article 5 of the Convention.

A further responsibility of the Commission on the Status of Women is to make women aware of their rights; a survey on the national birthrate has been concluded and the Commission is responsible for carrying out a number of programmes aimed at giving the widest possible publicity to family planning.

The Commission on the Status of Women has itself participated in various international meetings, giving it an opportunity to express its views publicly on policy-making at the international level on behalf of women.

3. FACTORS AND DIFFICULTIES AFFECTING IMPLEMENTATION OF THE OBLIGATIONS IMPOSED BY THE CONVENTION

3.1. The following comments may be made in connection with the legislation which has been promulgated and which was referred to in section 2.1 of this report:

Up to now, difficulties have been encountered in implementing the provisions of the Advertising Code, since none of the sanctions laid down by the Code have been applied. The Advertising Code also provides for the establishment of an Advertising Council which, however, has not yet become operational.

The Commission on the Status of Women will provide logistical and technical assistance for a seminar on the image of women in advertising to take place in 1983 under the auspices of women's non-governmental organizations belonging to the Advisory Council of the Commission. One of the aims of the seminar will be to ensure that the Advertising Code is in fact applied in practice.

In addition, as was mentioned earlier, the regulations for implementing Decree-Law No. 503/80 of 20 October, which is a framework law for the family, have not yet been established, so that the provisions of that Law remain somewhat theoretical.

3.2. IN THE FIELD OF EDUCATION, women's choice of profession continues to be determined either by tradition or by the actual conditions of the labour market; in fact, and in practice, discrimination continues to exist, despite its total absence from the curricula and despite the fact that a balance has aready been achieved between boys and girls at all levels of schooling.

3.3. AS REGARDS EQUALITY IN WORK AND EMPLOYMENT, the major difficulty in achieving that goal in real and effective terms is the current economic crisis.

In fact, most of the unemployed, apart from young people, are women, who in practice are subject to discrimination in their access to employment.

Moreover, the legislation in Portugal on short-term contracts creates quite specific problems for women, in that it enables employers not to renew a contract at the end of its term in circumstances where dismissal would be totally prohibited by law under the legislation on protection of maternity.

At the intermediate stage of development in which our country still finds itself, other problems affecting women result from the lack of facilities for child-care and families.

3.4. OBSTACLES TO THE PARTICIPATION OF WOMEN IN POLITICAL AND CIVIC LIFE

These obstacles are not the result of legal circumstances, but primarily of social and cultural factors: women themselves are at present very apathetic and

In this connection we should, however, point out that there are no specific measures aimed at promoting wider participation of women.

3.5. Despite the action already taken, discrimination still takes many forms, attributable to women's lack of awareness of such discrimination and of their own rights, and to the persistence in our society and our families of stereotyped ideas of cultural origin regarding the traditional roles of men and women.

4. CONCLUSION

The conclusion can therefore be drawn that, despite the fact that the Portuguese legal system is in conformity with the principles of the Convention and that progress has indeed been made since ratification in eliminating discrimination against women, such discrimination is still to be found in practice. It will take a long time to eliminate it once and for all from Portuguese society.

From the foregoing it becomes clear that the obstacles confronting us in eliminating discrimination derive from economic, social and cultural factors.

In Portugal, like everywhere else in the world, effective elimination of discrimination against women also depends on a change in economic, social and cultural conditions and on citizens being aware of the importance of the problem.

LEGISLATION

ANNEX I

1. Decree-Law No. 392/79 of 20 September;
2. Decree-Law No. 49408 of 21 November 1964;
3. Decree-Law No. 197/77 of 17 May;
4. Decree-Law No. 496/77 of 25 November;
5. Civil Code. Various articles, 1601; 1604; 1671 to 1678; 1682-A and B; 1901 to 1912; 2020;
6. Law No. 2098 of 29 July 1959;
7. Law No. 37/81 of 30 October;
8. Decree-Law No. 421/80 of 30 September;
9. Decree-Law No. 503/80 of 20 October;
10. Decree No. 89/81 of 14 July;
11. Decree No. 183/F/80 of 9 July;
12. Decree-Law No. 485/77 of 17 November;
13. Decree-Law No. 112/76 of 7 February;
14. Decree No. 89/81 of 14 July.

ANNEX II

1976 Constitution of the Portuguese Republic;

ANNEX III

Constitution of the Portuguese Republic. First revision, 1982;

ANNEX IV

Dossier on the status of women in Portugal.